

ORD. 2017-01

AN ORDINANCE PURSUANT TO ARTICLE VI OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AMENDING THE ZONING ORDINANCE OF CONESTOGA TOWNSHIP, BY PROVIDING FOR THE REGULATION OF SURFACE LAND USES AFFILIATED WITH TRANSMISSION PIPELINES. EFFECTIVE FIVE DAYS FROM ENACTMENT.

Section 1. The Conestoga Township Zoning Ordinance, as amended ("Zoning Ordinance"), Article 11, Supplemental Regulations, is amended by adding a new Section 1126, to read as follows:

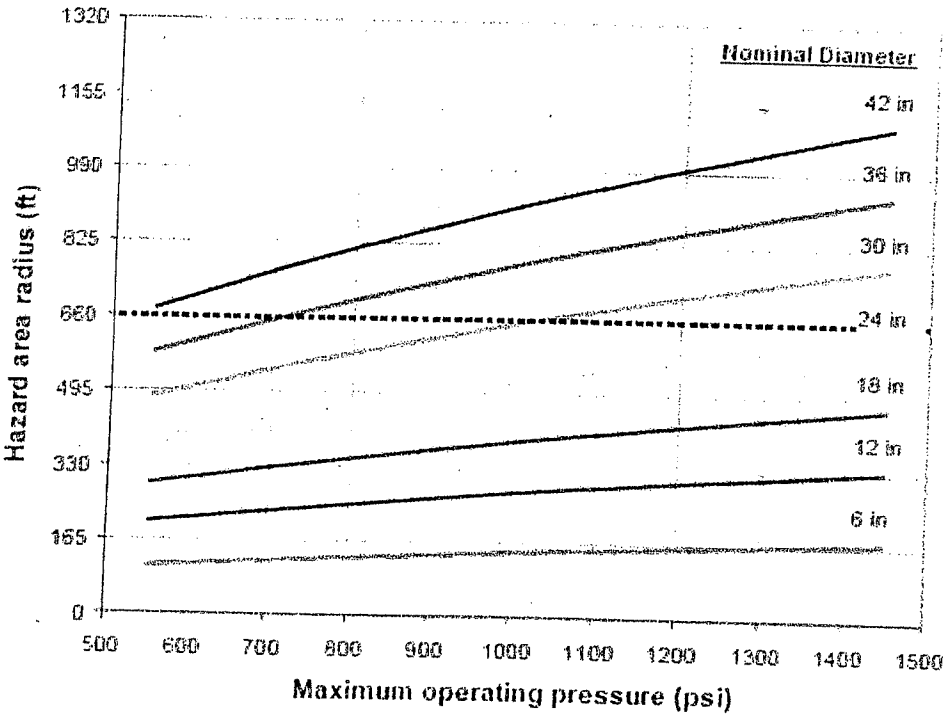
Section 1126 - Surface Land Uses Affiliated with Transmission Pipelines.

- A. **Permitted Locations.** Surface land uses affiliated with transmission pipelines shall be permitted as a conditional use in all zoning districts where underground pipelines exist or are proposed, subject to the recommendations of the Township Planning Commission, and subject to the applicable provisions of Article 13 of this Ordinance.
- B. **Purposes and Intent.** The purposes of this Section shall be to accommodate the need for surface land uses affiliated with transmission pipelines, consistent with the desire to protect the health, safety and welfare of the citizens of the Township. This Section is intended to minimize aesthetic, nuisance, visual and other adverse effects of surface land uses affiliated with transmission pipelines through proper design, siting, noise abatement, vegetative screening, and other appropriate measures, and to ensure that the location of surface land uses affiliated with transmission pipelines will be in compliance with applicable industry standards and requirements, Federal law and Pennsylvania State law, including the Federal Energy Regulatory Commission (FERC), the Pennsylvania Oil and Gas Act (as amended), and Pennsylvania case law.
- C. **Preserve Rural Character and Sensitive Environmental Resources.** This Section is also intended to preserve the rural character of neighborhoods and the sensitive environmental resources that may be adjacent to surface land uses affiliated with transmission pipelines.
- D. **Use provisions.** Surface land uses affiliated with transmission pipelines shall be regulated as follows:
 - 1. Dimensional Requirements, Area and Bulk Standards to be Met. Such uses shall meet the dimensional requirements, including but not limited to the area and bulk standards of the underlying zoning district. Applicants are required to demonstrate to the satisfaction of the Township that the requirements of Section 1126 D.3 in this Ordinance, Standards for Surface Land Uses Affiliated with Transmission Pipelines, can be met.
 - 2. Other Uses to be Prohibited. All other uses ancillary to surface land uses affiliated with transmission pipelines are prohibited unless otherwise permitted in the zoning district in which the use is located.

3. Specific Standards. The following standards for surface land uses affiliated with transmission pipelines will be applied by the Township prior to permitting surface land uses affiliated with transmission pipelines:

a. Setbacks. Unless otherwise approved by the Board of Supervisors upon recommendation of the Township Planning Commission, the applicant shall demonstrate that the setbacks for surface land uses affiliated with transmission pipelines and all supporting equipment and structures from any property line or right-of-way shall be consistent with the minimum setback in the underlying zoning district. In addition, surface land uses affiliated with transmission pipelines and all supporting equipment and structures shall be setback a minimum of 750 feet from residential buildings and all commercial, industrial and institutional uses or a minimum of 500 feet from the nearest lot line, whichever is greater. Setbacks may be increased by the Township pursuant to the type of material being managed at the surface land use affiliated with transmission pipelines and whether the use is adjacent to areas of high on-site population. The Township shall, on a case-by-case basis, determine whether increased setbacks are warranted consistent with the "Potential Impact Radius" (PIR), defined by the relationship between the diameter of the adjacent pipeline (and appurtenances) and its maximum operating pressure (see **Potential Impact Radius (PIR) and Pipeline Class Locations** graph below), whether high on-site populations are in proximity, and whether more than one transmission pipeline (such as coupled lines) will be managed at the surface land use affiliated thereto. The PIR approach is applicable only to surface land uses affiliated with "gas" or "petroleum gas" transmission pipelines as defined by Title 49, Code of Federal Regulations, Section 192.3. Surface land uses affiliated with transmission pipelines carrying "hazardous liquids", as defined by Title 49, Code of Federal Regulations, Section 195.2, shall adhere to the setback standards contained in this subsection.

Potential Impact Radius (PIR) and Pipeline Class Locations



- b. Landscaping. The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to screen and buffer surface land uses affiliated with transmission pipelines. The landscape plan shall incorporate the use of an eight-foot decorative fence surrounded by a mix of native vegetation, including evergreens, shrubbery and trees, which shall not be less than the height of the fence at installation and shall be of sufficient density to screen the facility. Existing vegetation in proximity to surface land uses affiliated with transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of the Township's Subdivision and Land Development Ordinance. Applicants shall submit a visual survey from mutually agreed-upon vantage points in order to support the proposed landscaping plan's mitigation of visual impacts.
- c. Noise. Sound produced by the surface land use affiliated with transmission pipelines shall not result in noise or vibration clearly exceeding the unrelated average intensity of noise or vibration otherwise occurring from other causes at the property line; in no case shall the sound pressure level exceed 60 dB(A) (according to the American National Standards Institute "A" weighted scale) at the property line closest to the land use.

- d. Odors. Odor, vapors or particulate matter produced by the surface land use affiliated with transmission pipelines shall not exceed the unrelated average emission of such substances occurring from other causes at the property line. Specific contaminants shall be regulated by PA Code, Title 25, Environmental Protection, Part 1, Subpart C, Article III, Air Resources.
- e. Signage. All signs, other than utility identification signs, appropriate warning signs, or owner identification signs, shall be prohibited. There shall be no antennae, advertising, or other items or material affixed to or otherwise placed on surface land uses affiliated with transmission pipelines, except as permitted by the Township.
- f. Parking. If the surface land use affiliated with a transmission pipeline is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of parking spaces shall be equal to the number of people on the largest shift. Parking spaces shall be located within the decorative fence and landscape buffer area so that they are substantially concealed when viewed from surrounding properties.
- g. Lighting. No surface land use affiliated with a transmission pipeline shall be artificially lighted except as required for emergency night time access. Any such lights shall be shielded so as to prevent intrusion upon nearby properties and shall be oriented downward to eliminate skyglow.
- h. Engineered drawing submission. Applications for a surface land use affiliated with a transmission pipeline shall be accompanied by engineering drawings prepared by an engineer licensed in Pennsylvania. The applicant shall show that all applicable Commonwealth of Pennsylvania and U.S. standards for the construction, operation, and maintenance of the proposed facility have been met.
- i. Design. The applicant proposing a surface land use affiliated with transmission pipelines must demonstrate that the structure has been designed to blend in with or mimic existing structures in the landscape such as residential outbuildings, farm structures, or other uses permitted in the underlying districts.
- j. Visual impact. Any surface land use affiliated with a transmission pipeline shall be designed and constructed so as to mitigate the visual impact from public roads and nearby uses. In addition, the color and other visual features of the land use affiliated with a transmission pipeline shall be designed and installed in such a manner so as to create the least visual impact practicable. The applicant shall demonstrate compliance with this Section, by among other things, providing photographic perspectives of the proposed surface

development from all sides of the property and from adjacent roads and neighboring properties (with permission of the owners).

- k. Need. The applicant for a surface land use affiliated with a transmission pipeline is required to demonstrate, using scientific and technological evidence, that the facility must be located where it is proposed in order to satisfy its function in the applicant's pipeline system and demonstrate that there is a need for this facility at the location where it is proposed.
- l. State and Federal Regulation. All applicants, whether commercial pipeline companies or otherwise, must demonstrate the submission of sufficient filings and/or receive sufficient approvals, as required, through the Federal Energy Regulatory Commission, the Pipeline and Hazardous Materials Safety Administration, and the Commonwealth of Pennsylvania and/or the Pennsylvania Public Utilities Commission. Such documentation is not required as part of the initial application to the Township, but must be included with a final as-built plan submitted upon request by the Township.
- m. Removal of surface land uses affiliated with transmission pipelines. Any surface land use affiliated with a transmission pipeline that is no longer licensed and active shall be removed and the site restored to its preconstruction condition at the owner's expense within 60 days of the last date that the facility was licensed by the Pennsylvania Department of Environmental Protection and Federal Energy Regulatory Commission. A bond or escrow account shall be posted with the Township in an amount sufficient to ensure such removal and site restoration prior to the construction of the facility. The applicant shall have prepared and submit to the Township to accompany the bond or escrow account, an estimate of the cost necessary to remove the surface land use facility associated with the pipeline and restore the site to its preconstruction condition.

Section 2. The Conestoga Township Zoning Ordinance, as amended (the "Zoning Ordinance"), Article 2, Definitions, is amended by adding the following terms and definitions in the correct alphabetical sequence:

Pipeline – A facility through which a liquid moves in transportation, and as defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

Surface land uses affiliated with transmission pipelines – Above-ground facilities associated with transmission pipeline facilities including, but not limited to, compressor stations, pumping stations, regulator stations, valve stations, offices, parking areas, equipment sheds, launcher/receiver stations, and other surface pipeline appurtenances.

Transmission Pipelines – Transmission pipelines include, but are not limited to, pipelines designed for the transmission of a "gas" or "petroleum gas", except a "service line", as

those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also included are pipelines designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2.


Section 3. If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

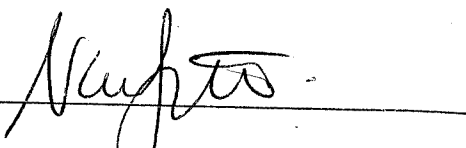
Section 4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

Section 5. This ordinance shall be effective five (5) days after enacted by the Board of Supervisors of Conestoga Township.

ORDAINED AND ENACTED as an Ordinance this 7th day of March, 2017, by the Board of Supervisors of Conestoga Township, Lancaster County, Pennsylvania.

BOARD OF SUPERVISORS OF
CONESTOGA TOWNSHIP
LANCASTER COUNTY, PENNSYLVANIA

By: 
(Vice) Chairman

Attest: 
(Asst.) Secretary